

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS XTREME CAGE COMBAT RYAN KERWIN (b) County of Residence of First Listed Plaintiff BUCKS COUNTY <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		DEFENDANTS ECC FITNESS STEVE ROSENBLUM OFA DONALDSON County of Residence of First Listed Defendant PHILADELPHIA <i>(IN U.S. PLAINTIFF CASES ONLY)</i> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.						
(c) Attorneys (Firm Name, Address, and Telephone Number) 267-702-8701 (PRO SE) 240 BRITTANY DRIVE LANGHORNE, PA 19047		Attorneys (If Known)						
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)						
<input type="checkbox"/> 1 U.S. Government Plaintiff X 3 Federal Question <i>(U.S. Government Not a Party)</i>		Citizen of This State X 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 2 U.S. Government Defendant X 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>						
		Citizen of Another State X 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State Citizen or Subject of a Foreign Country X 3 <input type="checkbox"/> 3 Foreign Nation						
IV. NATURE OF SUIT (Place an "X" in One Box Only)								
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	OTHER STATUTES <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes				
					PERSONAL INJURY		PERSONAL INJURY	
					<input type="checkbox"/> 365 Personal Injury - Product Liability		<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	
					<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 710 Fair Labor Standards Act	
					PERSONAL PROPERTY		<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	
					<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education		<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	
					REAL PROPERTY		<input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	
					CIVIL RIGHTS		<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
					PRISONER PETITIONS		SOCIAL SECURITY	
					IMMIGRATION		<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
FEDERAL TAX SUITS		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609						
V. ORIGIN (Place an "X" in One Box Only)		<input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation						
VI. CAUSE OF ACTION		Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. 1125 (a)(1)(A) & (a)(1)(B)						
BRIEF DESCRIPTION OF CAUSE:								
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$25,000 & INJUNCTION CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
VIII. RELATED CASE(S) IF ANY <i>(See instructions):</i>		JUDGE DOCKET NUMBER						
DATE 7/5/12 FOR OFFICE USE ONLY		SIGNATURE OF ATTORNEY OF RECORD <i>Ryan Kerwin</i>						
RECEIPT # _____ AMOUNT _____		APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____						

JCJ

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

CIVIL ACTION

Xtreme Caged Combat, et al
v.

ECC Fitness, et al

NO. 12 3855

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>7/9/12</u>	<u>Alice M</u>	<u>Attorney for</u>
Date	Deputy Clerk	Attorney for
<u>Telephone</u>	<u>FAX Number</u>	<u>E-Mail Address</u>

UNITED STATES DISTRICT COURT

12 3855

503

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment in appropriate calendar.

Address of Plaintiff: 240 Brittany Drive, Philadelphia, PA 19047

Address of Defendant: _____

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space) *Philadelphia*

Does this civil action involve a nongovernmental corporate party with any parent corporations and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pre or civil rights case filed by the same individual?

Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. Insurance Contracts and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Adulterate
9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$130,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/11/2012

Dale M.

Deputy Clerk

Attorney I.D.#

CTV. 609 (6/08)

J
C
J

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

XTREME CAGED COMBAT

12 3855

AND RYAN KERWIN

plaintiffs,

VS.

ECC FITNESS (AKA EXTREME

CAGE COMBAT), STEVE

ROSENBLUM AND OFA

DONALDSON

defendants,

COMPLAINT

I. Jurisdiction and Venue:

1. This court has jurisdiction over this civil action pursuant to 15 U.S.C. 1125

section (a) (1) (A) and 15 U.S.C. 1125 section (a) (1) (B)

2. The events giving rise to the instant claims and causes of action occurred in

the Counties of Philadelphia and Bucks County Pennsylvania making the United

States District Court for the Eastern District of Pennsylvania the appropriate venue

for this action pursuant to 15 U.S.C. 1121 (a). This court also has jurisdiction to

grant injunctive relief in this case pursuant to 15 U.S.C. 1116.

II. Plaintiffs;

3. Plaintiff Xtreme Caged Combat (XCC) is a state registered and licensed mixed martial arts promotion and mixed martial arts training facility located at 11000 Roosevelt Blvd., Philadelphia, PA 19116.
4. Plaintiff Ryan Kerwin, is the owner of Xtreme Caged Combat and a citizen of the Commonwealth of Pennsylvania with his address located at 240 Brittany Drive, Langhorne, PA 19047.

III. Defendants;

5. Defendant ECC Fitness (aka, Extreme Cage Combat) is a mixed martial arts training facility located at 8801 Torresdale Ave., Philadelphia, PA 19136 and 640 West Street Road, Feasterville, PA 19053.
6. Defendant Steve Rosenblum, is an owner of ECC Fitness (aka, Extreme Cage Combat) with his business address' located at 8801 Torresdale Ave., Philadelphia, PA 19136 and 640 West Street Road, Feasterville, PA 19053.
7. Defendant Ofa Donaldson, is an owner of ECC Fitness (aka, Extreme Cage Combat) with his business address' located at 8801 Torresdale Ave., Philadelphia, PA 19136 and 640 West Street Road, Feasterville, PA 19053.
8. The defendants are being sued individually and in their official capacity.
9. The defendants are citizens of the United States and the Commonwealth of Pennsylvania and were at all times mentioned herein acting under the color of law.

IV. FACTS;

10. Xtreme Caged Combat (Also referred to as XCC) is a mixed martial arts fight promotion and mixed martial arts training facility that runs and operates its businesses in the Bucks County and Philadelphia Pennsylvania areas.
11. Xtreme Caged Combat is a state registered and licensed business that has been in

existence and operation since April 29, 2009.

12. ECC Fitness (aka, Extreme Cage Combat) is a mixed martial arts training facility that fights for local fight promotions and runs and operates its businesses in the Bucks County and Philadelphia Pennsylvania areas.
13. ECC Fitness (aka, Extreme Cage Combat) began doing business under its current trade name on or around December of 2011.
14. Both owners of ECC Fitness (aka, Extreme Cage Combat) were formally promoting there previous training facilities as Liberty Boxing (Ofa Donaldson) and Liberty MMA (Steve Rosenblum) prior to teamming up and opening two new facilities under the new trade name of ECC Fitness (aka, Extreme Cage Combat)
15. Both defendants knew plaintiff personally and had direct knowledge of and dealings with defendant's Xtreme Caged Combat business prior to changing their trade names to ECC Fitness (aka, Extreme Cage Combat)
16. Plaintiffs' business emblem is advertised with the letters XCC with a line cutting through the letters. (**Exhibit A**)
17. Defendants' business emblem is advertised with the letters ECC with a line cutting through the letters. (**Exhibit B**)
18. Plaintiffs' business letters are an acronym for the words "Xtreme Caged Combat."
19. Defendants' business letters are an acronym for the words "Extreme Cage Combat."
20. Defendants were given several warnings by Plaintiffs to refrain from using the letters ECC, the likeness of the Xtreme Caged Combat letters emblem and any reference to the words "Extreme Cage Combat" when promoting their business.
21. Defendants ignored all warnings by Plaintiffs to refrain from such acts and continued to promote their business in violation of Plaintiffs federally recognized rights.
22. Subsequent to Plaintiff's warnings to refrain from such acts, in April/May of 2012,

the Defendants sent out an add in "Clipper Magazine" to over 50,000 homes in Plaintiff's direct target market area soliciting their mixed martial arts training facility with the ECC acronym, the likeness of the Xtreme Caged Combat letters emblem and the words "Extreme Cage Combat" all contained within the ad. (**Exhibit C**)

23. Also subsequent to Plaintiffs' warnings to refrain from such trademark infringements, both Defendants manufactured and produced a large quantity of shirts that contained the words "Extreme Cage Combat" advertising their mixed martial arts training facility that were bought and worn by dozens of fans at a Locked in the Cage fighting event (Plaintiffs' main fight promotion competitor in the local area market) at a fight venue Plaintiff had previously done shows at on 3 prior occasions (The Sportsplex in Feasterville, PA) (**Exhibit D**)

24. These shirts were also worn by the defendants and their fighter (Ed Shupe) at that very same Locked in the Cage event and the video footage of the defendants and their fighter wearing these shirts are contained in videos that were streamed via the internet, posted on Facebook and/or posted on Youtube.

25. Further subsequent to Plaintiff's warnings to refrain from such trademark infringements, Defendant Steve Rosenblum has advertised his ECC Fitness training facility as also being known as "Extreme Cage Combat" in those specific words as shown on his Facebook page. (**Exhibit E**)

26. Both Defendants have on numerous occasions made verbal name affiliation infringements referring to their training facility as Extreme Cage Combat in conversations and while advertising their product.

27. Both defendants were failed business owners who lost money running Liberty Boxing and Liberty MMA. Subsequent to both defendants labeling themselves as "Extreme Cage Combat" their business has flourished in

comparison.

V. CAUSE OF ACTION - TRADEMARK INFRINGEMENT / DILUTION

28. The Defendants, in connection with their goods and services, used in commerce

Plaintiffs' business' words, terms, name, symbol and/or combinations and
likenesses thereof.

29. The Defendants' actions in this regard were deliberate, willful and wanton,

were done using false or misleading description of fact and misleading
representation of fact, were intended to cause confusion and mistake, and
were intended to deceive as to the affiliation, connection and association with
Plaintiffs Ryan Kerwin and Xtreme Caged Combat.

30. These same actions have caused confusion and mistake in the marketplace as to
Extreme Cage Combat's affiliation and association with Xtreme Caged Combat.

31. The Defendants' actions in this regard have and are likely to continue to cause
damage to Plaintiffs' reputation and finances.

VI. RELIEF REQUESTED;

32. Nominal, Compensatory and Punitive damages against the defendants in an amount
in excess of \$25,000.00 (Twenty Five Thousand Dollars)

33. A Permanent Injunction preventing the defendants from using the letters ECC,
The likeness of plaintiffs' XCC letters emblem, the words "Extreme Cage Combat,"
or any other similar promotional variations related hereto, when advertising their
training facilities, products or services.

34. The destruction of any and all labels, signs, prints, packages, t shirts, videos
digital reproductions or any other tangible or electronic advertisement or
product in the possession of the defendants and their affiliates that bear the
letters ECC, The likeness of Plaintiffs' XCC letters emblem, the words "Extreme

Cage Combat," or any other similar variations related thereto.

35. Any and all of the profits generated by defendants since they changed their business name to "Extreme Cage Combat" as provided in 15 U.S.C. 1117 (a).

36. A trial by jury.

37. Any and all attorney fees, filing fees, costs or other expenses related to the filing and litigation of this lawsuit.

38. Any other relief plaintiff may be entitled to that is not requested herein.

Respectfully submitted,

7/3/12

Date

Ryan Kerwin

Ryan Kerwin

**X7
X7 FIGHTING
FACILITY**

**1100 ROOSEVELT BLVD.
PHILADELPHIA, PA
[INSIDE WORLD GYM]
267-7022-8701**



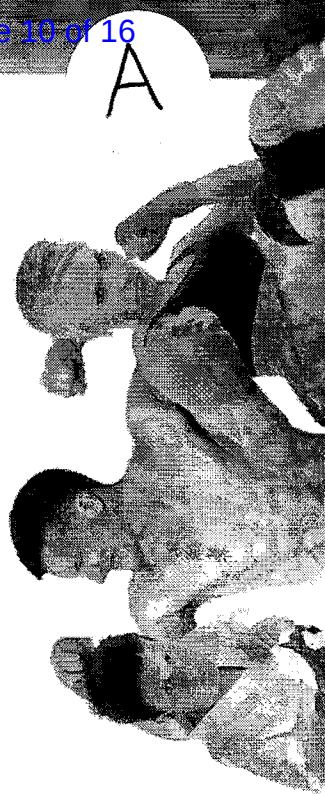
TRAIN WHERE THE FIGHTERS TRAIN

CLASSES 7 DAYS A WEEK

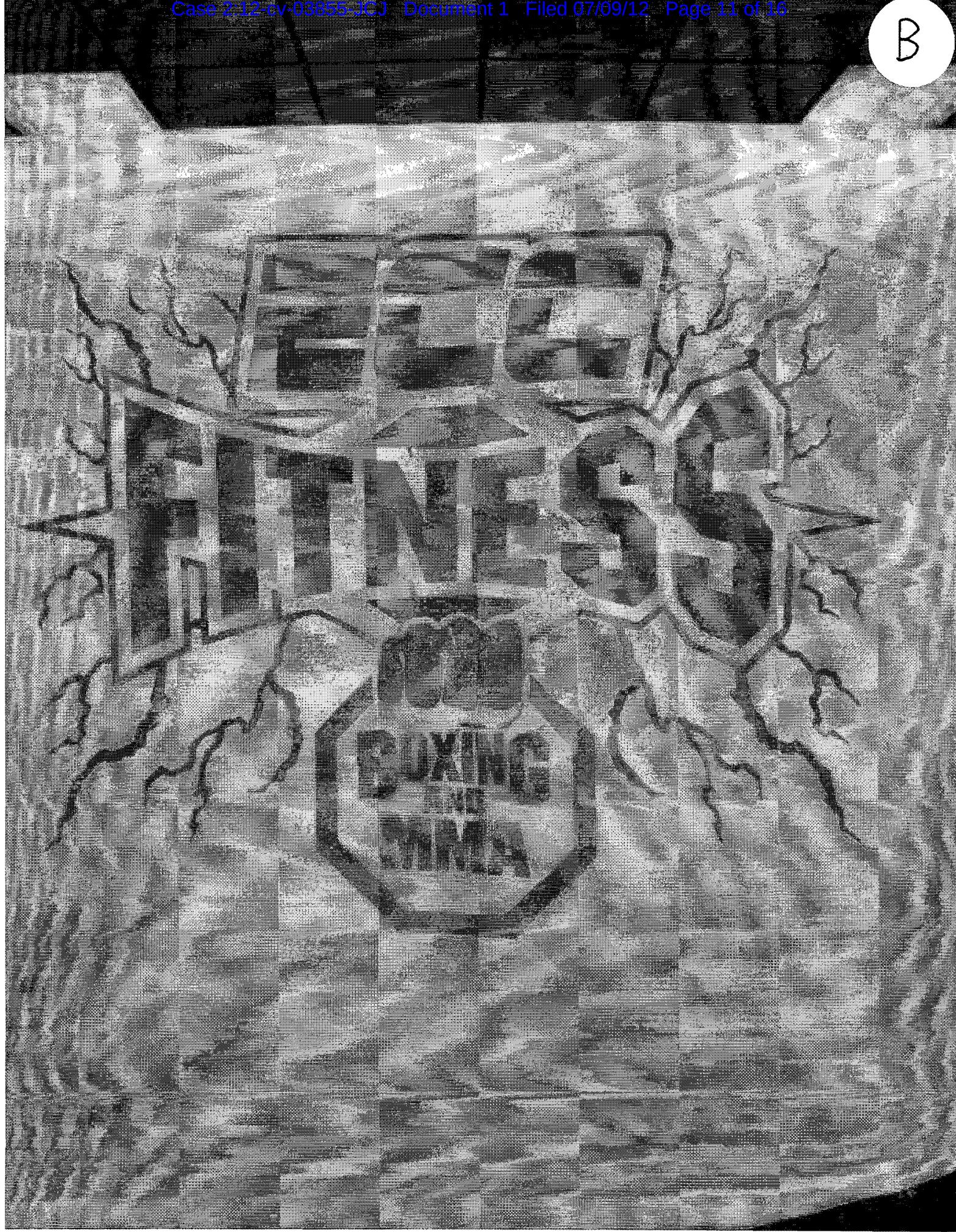
**MMA TRAINING: \$65 A MONTH
[INCLUDES BOXING, MUAY THAI, JIU-JITSU & WRESTLING]**

WOMEN'S KICKBOXING: \$45 A MONTH

KID'S MMA: \$45 A MONTH



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attested to before him

on the 10th day of July, 2012.

IN WITNESS WHEREOF, I have signed my name below.

EDGAR J. HARRIS
EDGAR J. HARRIS

E

Whitehead, Rosenblum

Whitehead, Rosenblum

Whitehead, Rosenblum

Concrete Fibrehouse

WHITEHORN CONTRACTING LTD 1000 STATION AVE VANCOUVER, BC

1100 5th Street

Oakwood Condominiums

1100 5th Street

8th & Robson

Clerk of Court,

July 5, 2012

In re: Xtreme Caged Combat, et al. vs E.C.C. Fitness, et al.

Enclosed is a copy of the original complaint in the above matter, a civil cover sheet, a check for the \$350 filing fee and two summons to be stamped and returned to me so I can have service of process effectuated on the defendants.

Please process the enclosed suit, return to me the necessary documents for service and if there are any issues whatsoever please call me at the cell phone number listed below so I can fix whatever deficiencies there may be.

Thank you for your time and I look forward to receiving my stamped copies of the summons for service.

Respectfully,

Ryan Kerwin
240 Brittany Drive
Langhorne, PA 19047
267-702-8701